IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMON ORDER IN

SUMMONS FOR JUDGEMENT NO. 61 OF 2003

IN

SUMMARY SUIT NO. 3749 OF 2002

A N D

SUMMONS FOR JUDGEMENT NO. 177 OF 2003

IN

SUMMARY SUIT NO. 3749 OF 2002

M/s.Asia Today Ltd. .. Plaintiff

versus

Euro RSCG Advertising Ltd. & ors. .. Defendants

...

Mr.V.R. Dhond with Mr.Prakash Shinde i/b M.Dhruve for the plaintiff.

Mr.V.K. Rambhadran with Mr.N.S. Rodrigues for the defendant no.1.

Mr.Nivas Kamble i/b A.M. Saraogi for the defendant no.2.

CORAM : D.G. KARNIK,J.

DATED : 24th January 2005.

P.C.:

1. Heard the learned counsel for the parties.

2. The plaintiff has filed this suit for recovery of the money due in respect of the various invoices listed at page no.17 of the plaint. According to the plaintiff, demand was to be made within a period of 45 days. In the notice dated 5th January 2000, the dates of the invoices mentioned show that the last invoice is dated 31st may 1999. Therefore, payment in respect of the last of the invoices would have fallen due by 15th July 1999. The present suit has been filed on 29th August 2002 which is beyond the period of three years.

3. There is no pleadings in the plaint regarding any part payments or acknowledgement extending the period of limitation. Thus, prima facie suit appears to be barred by limitation. The defence of limitation taken by the defendants cannot be said to be illusory or moonshine. In the circumstances, the defendants are granted unconditional leave to defend the suit. Suit shall stand transferred to the list of commercial causes. The defendants to file written statement within a period of one month.

D.G. KARNIK, J